

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**Ravidath Lawrence RAGBIR et al.,**

Plaintiffs,

vs.

**THOMAS D. HOMAN, in his official capacity as  
Deputy Director and Senior Official Performing  
the Duties of the Director of U.S. Immigration  
and Customs Enforcement, et al.,**

Defendants

Case No.: 18-cv-1159 (PKC)

DECLARATION OF ALINA DAS  
IN SUPPORT OF PLAINTIFFS'  
MOTION FOR A PRELIMINARY  
INJUNCTION

Pursuant to 28 U.S.C. § 1746, I, ALINA DAS, declare under the penalty of perjury that the following is correct to the best of my knowledge:

1. My name is Alina Das. I am a professor, co-director, and supervising attorney for the Immigrant Rights Clinic of Washington Square Legal Services, Inc., at New York University School of Law, 245 Sullivan Street, 5th Floor, New York, New York 10012.
2. I, along with co-counsel, represent the Plaintiffs in the instant action. I previously submitted a declaration in support of Plaintiffs' motion for a preliminary injunction (ECF No. 17). I submit this second declaration to address certain assertions in the declarations submitted by Field Office Director Thomas Decker and Deputy Field Office Director Scott Mechkowski.
3. I have represented Plaintiff Ravidath "Ravi" Ragbir pro bono as his immigration attorney since 2008, along with numerous students under my supervision in the Immigrant Rights Clinic.

**Brief Background**

4. As I detailed in my prior declaration, Mr. Ragbir is Executive Director of the New Sanctuary Coalition of New York City (“New Sanctuary Coalition”), a coalition of over 150 faith-based groups, with more than 1,000 volunteers, who advocate for immigrant rights. As Executive Director of New Sanctuary Coalition, Ravi is a nationally recognized immigrant rights leader. His work and his views about immigration policy are frequently profiled in local and national media, and he is associated closely with the sanctuary movement.
5. Mr. Ragbir became a lawful permanent resident of the United States in 1994. In 2006, Mr. Ragbir was initially detained by immigration officials and placed in removal proceedings based on his 2001 conviction for wire fraud and conspiracy to commit wire fraud. His removal order became administratively final in 2007, but he was released from immigration detention in 2008 on an order of supervision. Since his 2008 release, he has thus continued to live and work in the United States with the express authorization of Immigration and Customs Enforcement (“ICE”). ICE has provided this authorization through his order of supervision, which allows him to live in the United States and apply for work authorization despite his final order of removal. During some periods in the last decade, Mr. Ragbir has also received a formal stay of removal from ICE in addition to his order of supervision. One is not required to receive the other, and both provide authorization to remain in the United States, contingent upon compliance with the order.

**Inaccuracies in Defendants’ Declarations**

6. In describing the events and circumstances leading to Defendants’ decision to arrest and detain Mr. Ragbir on January 11, 2018 for removal, and their ongoing efforts to deport

Mr. Ragbir despite his release from detention, Director Thomas Decker and Deputy Director Scott Mechkowski make several statements that require clarification, including about Mr. Ragbir's prior authorization to remain in the United States, the relevance of Mr. Ragbir's 2001 criminal conviction, and the timing of Defendants' decision to remove Mr. Ragbir. These statements are material to the extent they attempt to offer an alternative explanation of the reasons and timing of Defendants' decision to target Mr. Ragbir for removal.

**Statements regarding the relevance of Mr. Ragbir's legal remedies**

7. Director Decker and Deputy Director Mechkowski state that Mr. Ragbir has been permitted to remain in the United States following his removal order due primarily to his pending petition for review to the Second Circuit, even stating that immigration officials released Mr. Ragbir in 2008 from his initial detention due to his then-pending Second Circuit petition for review and motion for a stay of removal. *See* Amended Declaration of Director Thomas Decker (ECF No. 58) ¶ 8 [hereinafter Amended Decker Decl.]; Declaration of Deputy Director Scott Mechkowski (ECF No. 50) ¶ 9 [hereinafter Mechkowski Decl.]. They further suggest that the denial of Mr. Ragbir's second petition for review to the Second Circuit in 2016 opened the way for deportation. Mechkowski Decl. ¶¶ 14, 17; Amended Decker Decl. ¶ 21.
8. However, ICE's decision to initially give Mr. Ragbir permission to live in the United States on an order of supervision starting in 2008, and its decision to grant him several subsequent administrative stays, appear to be based on other factors. According to Mr. Ragbir's Immigration and Customs Enforcement Post Order Custody Review Worksheet, dated February 11, 2008, Mr. Ragbir's release was authorized in 2008 on an order of

supervision because he “did not commit a crime of violence and does not appear to be a flight risk and he is fully aware that he will have to report to ICE custody when required.”

While the order references his pending Second Circuit petition, it does not state that the petition was the basis for release. Indeed, the Second Circuit petition had been pending since April 2007, but Mr. Ragbir was not released until after February 11, 2008.

Moreover, even after Mr. Ragbir’s first Second Circuit petition was denied in 2010, no enforcement action was taken against him and he continued to live and work in the United States under his order of supervision. Mr. Ragbir repeatedly reported to Immigration and Customs Enforcement as that order required. He continued to pursue other forms of relief, including a second petition for review to the Second Circuit. At no time was Mr. Ragbir ever told that his authorization to remain in the United States was contingent upon the outcome of his petitions for review alone, without regard to his other available legal remedies or his extensive community support.

**Statements regarding the relevance of Mr. Ragbir’s 2001 criminal conviction**

9. Director Decker emphasizes that President Trump has prioritized the deportation of people with criminal convictions. Amended Decker Decl. ¶¶ 4-5. To the extent he is suggesting that this prioritization explains the change in position in Mr. Ragbir’s case, it does not. President Obama also prioritized individuals with criminal convictions for deportation. *See, e.g.,* Dep’t of Homeland Security, *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens* (Mar. 2, 2011), <https://goo.gl/YTSvhP>. As in the Obama administration, President Trump permits discretion to be exercised on a case-by-case basis. Mr. Ragbir has only one conviction, from 2001.

10. Deputy Director Mechkowski admits that he gave no meaningful weight to the hundreds of community letters of support in favor of Mr. Ragbir's stay application. Mechkowski Decl. ¶ 22. He states that this is because the letters do not address Mr. Ragbir's conviction. *Id.* However, nearly every letter submitted explicitly references Mr. Ragbir's conviction and describes why it should not be an impediment to a grant of a stay. Mr. Ragbir talks openly about his conviction, and the letters of support—including a letter from his former criminal sentencing judge—reference and mitigate it.

**Decisions to Review Mr. Ragbir's Case, Surveil Him, and Deport Him**

11. Director Decker makes different statements in his two declarations regarding when and why he began to review Mr. Ragbir's case. In his second declaration, he states that he was contacted by Jacqueline Esposito, whom he describes as counsel for Mr. Ragbir. *See* Amended Decker Decl. ¶ 12. Ms. Esposito has never been counsel for Mr. Ragbir. Director Decker suggests he then reviewed Mr. Ragbir's file, *see id.*, but was unaware that I was counsel for Mr. Ragbir until we met at a community liaison meeting in April 2017. *Id.* ¶¶ 15-16. However, all legal paperwork in Mr. Ragbir's file, including the prior stay requests that Director Decker indicated that he carefully reviewed, *id.* ¶¶ 12-13, were submitted by me, on my letterhead, with my G-28 (notice of legal representation). My G-28 has been on file with Immigration and Customs Enforcement since 2008 and is included with each submission. Director Decker's Special Assistant responded to my pending request for a community liaison meeting on March 9, 2017, the day of Mr. Ragbir's check-in with ICE, during which elected officials and the media were present.
12. Director Decker and Deputy Director Mechkowski also state that Director Decker made the decision to deport Mr. Ragbir in December 2017. *Id.* ¶ 21; Mechkowski Decl. ¶ 17.

Yet Deputy Director Mechkowski recently submitted a declaration in *Ragbir v. Sessions*, attesting that he told me no decision had been made until January 11, 2018, but making no reference to a decision having been made by Director Decker in December 2017. *See* Declaration of Scott Mechkowski dated Jan. 19, 2018 (ECF No. 32) ¶ 43, *Ragbir v. Sessions*, No. 1:18-cv-236 (KBF) (S.D.N.Y. Jan. 29, 2018) (“[D]eclarant informed Das that no decision had been made on Ragbir’s request for an administrative stay of removal and that ICE was still reviewing the application.”). The new timeline described by Defendants’ declarations in this case also contradicts statements that Deputy Director Mechkowski made to me in person and in writing, as well as statements he made to others. I met with Deputy Director Mechkowski on January 8, 2018 to discuss Mr. Ragbir’s case. *See* Mechkowski Decl. ¶ 20; Das Decl. ¶ 15-16. I also emailed Deputy Director Mechkowski on January 10, 2018 to follow-up on the status of Mr. Ragbir’s application for a stay. Das Decl. ¶ 17. During our conversation on January 8, 2018, and in his email reply on January 10, 2018, Deputy Director Mechkowski stated that ICE had not yet made a decision on Ravi’s application. *Id.* ¶¶ 18-20.

13. In his declaration, Director Decker also states that ICE surveilled Mr. Ragbir on January 3, 2018, Amended Decker Decl. ¶ 34, and intended to detain him the same day as Jean Montrevil, one of New Sanctuary Coalition’s co-founders. *Id.* ¶ 31. This contradicts Deputy Director Mechkowski’s statements to me during our in-person meeting on January 8, 2018, that he had not surveilled Mr. Ragbir and that they had no intention of detaining him prior to his check-in with ICE.
14. Director Decker and Deputy Director Mechkowski justify the decision to attempt to detain Mr. Montrevil and Mr. Ragbir on the same day by suggesting detaining only one

of them would cause the other to evade deportation. *Id.* However, both had been detained before and still attended their subsequent check-ins upon release, including during periods where neither had a stay of removal in place. Both were aware that ICE could detain them at their upcoming check-ins. Neither had any reason to think that a decision in one person's case would have an impact on the other's, and neither Director Decker or Deputy Director Mechkowski explain why the two cases are related, other than that they are high-profile and involve the New Sanctuary Coalition. *See e.g.*, Amended Decker Decl. ¶ 12 ("My staff and I deemed Mr. Ragbir and Mr. Montrevil noteworthy because their removal potentially could garner media attention.").

15. To suggest that Mr. Ragbir did react to Mr. Montrevil's detention, both Director Decker and Deputy Director Mechkowski incorrectly assert that Mr. Ragbir took sanctuary (i.e., took the protection of a church to avoid deportation) on January 3, 2018, after learning that Mr. Montrevil was detained. Amended Decker Decl. ¶ 34; Mechkowski Decl. ¶ 20. Indeed, Deputy Director Mechkowski cites to that proposition as one of the reasons why he misinformed me that no decision had been made on Mr. Ragbir's case. *See* Mechkowski Decl. ¶ 20. That is incorrect. Mr. Ragbir did not take sanctuary. He works at the New Sanctuary Coalition, which is located at 239 Thompson Street, New York, New York, inside Judson Memorial Church. Judson Memorial Church also serves as the event space for New Sanctuary Coalition's community meetings, clinics, and an array of volunteer activities coordinated by Mr. Ragbir. Mr. Ragbir was working at the New Sanctuary Coalition on January 3, 2018 when unmarked cars were surveilling him. The fact that Mr. Ragbir was inside the church—his regular office—working at the time of Defendants' surveillance does not mean that Mr. Ragbir took sanctuary. To the contrary,



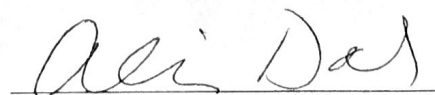
Mr. Ragbir has regularly stated he would not take sanctuary, has always complied with reporting requirements, and indeed reported to 26 Federal Plaza as required for his January 11, 2018 check-in.

16. In addition to these various inaccuracies and inconsistencies, there are other areas of disagreement in our respective recollections of conversations and meetings regarding Mr. Ragbir's case. Notably, in response to my previous declaration, Deputy Director Mechkowski denies expressing "resentment" towards Mr. Ragbir, or referencing Mr. Ragbir's statements to the press and his presence at vigils around 26 Federal Plaza, during his January 8, 2018 discussion with me. *See* Mechkowski Decl. at ¶¶ 20, 22. He also denies expressing anger and stating his need to "cool off" during the check-in on January 11, 2018 when Mr. Ragbir was detained (a meeting at which Mr. Ragbir, his wife Amy Gottlieb, and another ICE officer, Assistant Field Office Director Hector Medina, were also present). *Id.* ¶ 25. I recall those statements and references vividly, commenting on them to colleagues shortly after each meeting because they were so concerning.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, NY  
March 26, 2018

Respectfully submitted,



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